

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN ASSEMBLY JULY 21, 2003

AMENDED IN ASSEMBLY JUNE 19, 2003

AMENDED IN SENATE MAY 20, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE APRIL 24, 2003

SENATE BILL

No. 705

Introduced by Senator Florez

February 21, 2003

An act to add Section 41855.5 to the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 705, as amended, Florez. Air quality: agricultural burning: San Joaquin Valley Unified Air Pollution Control District.

(1) Existing law prohibits any person from knowingly setting or permitting agricultural burning unless he or she has a valid permit designated by the State Air Resources Board to issue a permit in the area where the burning is to take place. Existing law requires the state board to designate public fire protection agencies or other equivalent agencies to issue permits, and to adopt rules and regulations to provide a procedure for the issuance of those permits.

This bill would prohibit the issuance of any permit to a person to burn certain categories of agricultural waste, as defined, within the jurisdiction of the San Joaquin Valley Unified Air Pollution Control District, commencing on the date specified for each category. The bill

also would require the district to develop and adopt, by June 1, 2005, rules establishing the best management practices for certain other weeds and maintenance, as defined, and would require those rules to become operative on June 1, 2006. The bill would require the district to develop and adopt rules to regulate the burning of diseased crops. The bill would prescribe the circumstances under which a conditional crop burning permit would be authorized to be issued.

The additional duties of the bill for the district would impose a state-mandated local program.

(2) Existing law makes a violation of any rule, regulation, or order of the state board or a district a misdemeanor.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) This bill would make findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 of the California Constitution.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 41855.5 is added to the Health and
- 2 Safety Code, to read:
- 3 41855.5. (a) Notwithstanding any other provision of law, no
- 4 permit may be issued to a person to burn any of the following
- 5 categories of agricultural waste within the jurisdiction of the San
- 6 Joaquin Valley Unified Air Pollution Control District,
- 7 commencing on the following dates:
- 8 (1) Commencing June 1, 2005, for field crops, prunings, and
- 9 weed abatement.
- 10 (2) Commencing June 1, 2007, for orchard ~~or vineyard~~
- 11 removals.
- 12 (3) Commencing June 1, 2010, for other materials, *vineyard*
- 13 *removals*, and surface harvested prunings.

(b) The San Joaquin Valley Unified Air Pollution Control District, in consultation with the University of California Cooperative Extension, shall develop and adopt, not later than June 1, 2005, rules establishing best management practices for the control of other weeds and maintenance. The rules adopted pursuant to this subdivision shall be operative not later than June 1, 2006.

(c) For the purposes of this section, the following terms have the following meanings:

(1) "Field crops" means any of the following crops:

- (A) Alfalfa.
- (B) Asparagus.
- (C) Barley stubble.
- (D) Beans.
- (E) Corn.
- (F) Cotton.
- (G) Flower straw.
- (H) Hay.
- (I) Lemon grass.
- (J) Oat stubble.
- (K) Other field crops, as determined by the state board.
- (L) Pea vines.
- (M) Peanuts.
- (N) Rice stubble.
- (O) Safflower.
- (P) Sugar cane.
- (Q) Vegetable crops.
- (R) Wheat stubble.

(2) "Orchard removals" includes, but is not limited to, any of the following:

- (A) Orchard removal matter.
- (B) Stumps.
- (C) Untreated sticks.

(3) "Other materials" includes, but is not limited to, any of the following:

- (A) Brooder paper.
- (B) Deceased goats.
- (C) Diseased bee hives.
- (D) Fertilizer sacks.



- 1 (4) “Other weeds and maintenance” includes, but is not
2 limited to, any of the following:
- 3 (A) Ditch bank work.
 - 4 (B) Canal bank work.
 - 5 (C) Dodder weed.
 - 6 (D) Star thistle.
 - 7 (E) Tumbleweed.
 - 8 (F) Noxious weeds.
 - 9 (G) Pesticide sacks.
- 10 (5) “Prunings” means prunings from any of the following:
- 11 (A) Apple crops.
 - 12 (B) Apricot crops.
 - 13 (C) Avocado crops.
 - 14 (D) Bushberry crops.
 - 15 (E) Cherry crops.
 - 16 (F) Christmas trees.
 - 17 (G) Citrus crops.
 - 18 (H) Date crops.
 - 19 (I) Eucalyptus crops.
 - 20 (J) Fig crops.
 - 21 (K) Kiwi crops.
 - 22 (L) Nectarine crops.
 - 23 (M) Nursery prunings.
 - 24 (N) Olive crops.
 - 25 (O) Other prunings, as determined by the state board.
 - 26 (P) Pasture or corral trees.
 - 27 (Q) Peach crops.
 - 28 (R) Pear crops.
 - 29 (S) Persimmon crops.
 - 30 (T) Pistachio crops.
 - 31 (U) Plum crops.
 - 32 (V) Pluot crops.
 - 33 (W) Pomegranate crops.
 - 34 (X) Prune crops.
 - 35 (Y) Quince crops.
 - 36 (Z) Rose prunings.
- 37 (6) “Surface harvested prunings” includes, but is not limited
38 to, any of the following:
- 39 (A) Almond prunings.
 - 40 (B) Walnut prunings.



1 (C) Pecan prunings.

2 (D) Grape vines.

3 (E) Vineyard removal materials.

4 (7) "Vineyard materials" includes, but is not limited to, any of
5 the following:

6 (A) Grape canes.

7 (B) Raisin trays.

8 (8) "Weed abatement" includes, but is not limited to, any of the
9 following:

10 (A) Berms.

11 (B) Bermuda grass.

12 (C) Fence rows.

13 (D) Grass.

14 (E) Pasture.

15 (F) Ponding or levee banks.

16 (d) (1) The San Joaquin Valley Unified Air Pollution Control
17 District shall develop and adopt, by January 1, 2005, rules to
18 regulate the burning of diseased crops. The rules shall become
19 operative no later than June 1, 2005. The rules shall provide for the
20 issuance of a conditional crop burning permit if all of the following
21 criteria are met:

22 (A) The fields to be burned are specifically described.

23 (B) The applicant has not been cited for a violation of burning
24 rules or regulations in the past 3 years, *unless the violation was of*
25 *a de minimis nature, as determined by the district and the county*
26 *agricultural commissioner.*

27 (C) The county agricultural commissioner has determined all
28 of the following:

29 (i) During the growing season for that crop, there is a
30 ~~significant~~ *the* presence of a disease that will cause a substantial,
31 quantifiable reduction in yield *or poses a threat to the health of*
32 *adjacent vines, trees, or plants* in the field proposed to be burned,
33 during the current or next growing season.

34 (ii) There is no economically or technically feasible alternative
35 means of eliminating the disease other than burning.

36 (iii) Best management practices have been employed to
37 eradicate the disease, and have failed.

38 (2) A conditional crop burning permit shall authorize the
39 burning of only the identified diseased crop.

1 (3) The holder of a permit may not transfer, sell, or trade the
2 permit to any other individual.

3 ~~(4) A permit shall be valid for one burn per field per year.~~

4 (4) *A citation for a violation of burning rules or regulations*
5 *may be appealed to the San Joaquin Air Pollution Control District*
6 *Hearing Board.*

7 SEC. 2. The Legislature finds and declares that, due to the
8 unique circumstances applicable to agricultural waste and its
9 impacts on air quality in the San Joaquin Valley, a statute of general
10 applicability cannot be enacted within the meaning of subdivision
11 (b) of Section 16 of Article IV of the California Constitution.

12 SEC. 3. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution for
14 certain costs that may be incurred by a local agency or school
15 district because in that regard this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

21 In addition, no reimbursement is required by this act pursuant
22 to Section 6 of Article XIII B of the California Constitution for
23 certain other costs that may be incurred by a local agency or school
24 district because a local agency or school district has the authority
25 to levy service charges, fees, or assessments sufficient to pay for
26 the program or level of service mandated by this act, within the
27 meaning of Section 17556 of the Government Code.